

PROB 12B
(NYEP-3/17/06)

United States District Court

for the

Eastern District of New York

Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender
(Probation Form 49, Waiver of Hearing is Attached)Name of Offender: Richard RubinkowskiName of Sentencing Judicial Officer: The Honorable Reena Raggi, U.S. Circuit JudgeDate of Original Sentence: September 6, 2001Original Offense: Attempted Coercion of Minor to Engage in Sexual Activity, in violation of 18 U.S.C. 2422(b), a class C felony.Original Sentence: 78 months CAG, 3 years TSR, and a \$100 SAF. Special conditions imposed are as follows: (1) the defendant shall participate in such counseling programs as the Court may order on recommendation of the Probation Department; (2) the Court requires that the defendant register as a sex offender.Type of Supervision: Supervised ReleaseDate Supervision Commenced: June 9, 2006Case Number 01-CR-36CASE NO. 01-CR-36
JUN 18 2:09 PM '06

PETITIONING THE COURT

§ To modify the conditions of supervision as follows:

"The defendant shall participate in a mental health treatment program, which may include participation in a treatment program for sexual disorders, as approved by the Probation Department. The defendant shall contribute to the cost of such services rendered or any psychotropic medications prescribed via co-payment or full payment in an amount to be determined by the Probation Department, based upon the defendant's ability to pay and/or the availability of third party payment. As part of the treatment program for sexual disorders, the defendant shall participate in a polygraph examination(s) to obtain information necessary for risk management and correctional treatment."

"The defendant is not to use a computer, Internet capable device, or similar electronic device to access pornographic websites of any kind, including websites depicting images of nude adults or minors, or to communicate with any individual or group who promotes sexual abuse of children. The defendant shall cooperate with the U.S. Probation Department's Computer and Internet Monitoring Program. Cooperation shall include, but not be limited to, identifying computer systems, Internet capable devices and/or similar electronic devices the defendant has access to, and allowing the installation of monitoring software/hardware on said devices, at the defendant's expense. The defendant may be limited to possessing only one personal Internet capable device, to facilitate our department's ability to effectively monitor his/her Internet related activities. The defendant shall also permit random inspections of said computer systems, Internet capable devices, similar electronic devices and related computer media, such as CDs, under his/her control."

"Defendant shall submit his person, residence, place of business, vehicle, or any other premises under his control to a search on the basis that the probation officer has reasonable belief that contraband or evidence of a violation of the conditions of release may be found; the search must be conducted in a reasonable manner and at a reasonable time; failure to submit to a search may be grounds for revocation. The defendant shall inform any other residents that the premises may be subject to search pursuant to this condition."

"For a period of up to 120 days, the defendant shall reside in a Community Confinement Center (CCC) approved by the Probation Department. While in the CCC, the defendant shall adhere to all rules and conditions established by the CCC, including the payment of sustenance costs."

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CAUSE

As the offender has been convicted of a federal sex offense, the Probation Department is referring him to a sex offender-specific mental health treatment program at the New York Center for Neuropsychology and Forensic Behavioral Science ("NYF"). As part of the sex offender treatment program at NYF, the releasee may be subject to various clinical sex offender polygraphs to obtain information necessary for risk management and correctional treatment. The clinical polygraph examination is commonly used to evaluate and treat sexual offenders. The exams encourage the offender to be truthful with regards to their past and current sexual behaviors so that therapeutic measures can be taken to prevent relapse, high risk conduct, and future victimization.

In addition, as computer use was significant in the commission of the instant offense, the Probation Department is respectfully recommending the imposition of a computer monitoring and restriction special condition. This will allow the offender access to a computer and the Internet, however limit the opportunity to re-offend. We are also recommending that the Court impose the aforementioned search condition, for purposes of addressing risk control. The offender has agreed to waive his right to a hearing for the imposition of these modifications, by signing the attached Probation Form 49, Waiver of Hearing, on June 14, 2006.

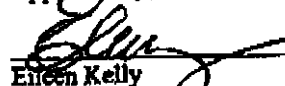
Lastly, upon commencement of supervision, the defendant reported being homeless, and was referred to the Salvation Army for housing. The Salvation Army subsequently referred him to a three-quarters house in Brooklyn, on June 9, 2006. However, on June 16, 2006, the defendant was discharged from the three-quarters house, due to the fact that he was not complying with house regulations. He failed to report same to his officer, and the undersigned was not made aware of his discharge until June 23, 2006, wherein we visited the three-quarter house and spoke with the manager there. Subsequently, it was learned, via contact with his sister, that Rubinkowski was residing at Charles H. Gay Homeless Shelter since June 16, 2006. When confronted with his failure to advise the undersigned of his change of residence on June 26, 2006, Rubinkowski could not account for why he did not comply with this condition. As a sanction for same, and in order to provide Rubinkowski with a structured environment to reside in, he was presented with the attached Probation Form 49, for 120-day CCC placement, which he signed on June 26, 2006.

Respectfully submitted by,



Elizabeth Daly
U.S. Probation Officer
Date:

Approved by,



Eileen Kelly
Deputy Chief U.S. Probation Officer
Date: 6/27/06

THE COURT ORDERS:

☒ The Modification of Conditions as Noted Above
☐ Other

s/ENV



Signature of Judicial Officer
HON. ERIC N. VITALLANO

Date: **JUL 12 2006**

United States District Court
EASTERN DISTRICT OF NEW YORK

**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

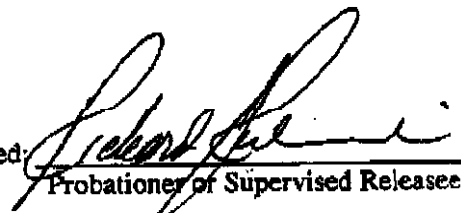
"The defendant is not to use a computer, Internet capable device, or similar electronic device to access pornographic websites of any kind, including websites depicting images of nude adults or minors, or to communicate with any individual or group who promotes sexual abuse of children. The defendant shall cooperate with the U.S. Probation Department's Computer and Internet Monitoring Program. Cooperation shall include, but not be limited to, identifying computer systems, Internet capable devices and/or similar electronic devices the defendant has access to, and allowing the installation of monitoring software/hardware on said devices, at the defendant's expense. The defendant may be limited to possessing only one personal Internet capable device, to facilitate our department's ability to effectively monitor his/her Internet related activities. The defendant shall also permit random inspections of said computer systems, Internet capable devices, similar electronic devices and related computer media, such as CDs, under his/her control."

Witness:



U.S. Probation Officer

Signed:



Probationer or Supervised Releasee

6/14/00

Date

PROB 49
(NYEP-8/5/04)E

United States District Court
EASTERN DISTRICT OF NEW YORK

**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

"The defendant shall participate in a mental health treatment program, which may include participation in a treatment program for sexual disorders, as approved by the Probation Dept. The defendant shall contribute to the cost of such services rendered or any psychotropic medications prescribed via co-payment or full payment in an amount to be determined by the Probation Dept, based upon the defendant's ability to pay and/or the availability of third party payment. As part of the treatment program for sexual disorders, the defendant shall participate in a polygraph examination(s) to obtain information necessary for risk management and correctional treatment."

Witness:

Elyse Hodel
U.S. Probation Officer

Signed:

[Signature]
Probationer or Supervised Releasee

10/14/06
Date

PROB 49
(NYEP-8/5/04)

United States District Court
EASTERN DISTRICT OF NEW YORK

**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

"Defendant shall submit his person, residence, place of business, vehicle, or any other premises under his control to a search on the basis that the probation officer has reasonable belief that contraband or evidence of a violation of the conditions of release may be found; the search must be conducted in a reasonable manner and at a reasonable time; failure to submit to a search may be grounds for revocation. The defendant shall inform any other residents that the premises may be subject to search pursuant to this condition."

Witness:

Elizabeth A. Kelly
U.S. Probation Officer

Signed:

Robert J. Kelly
Probationer or Supervised Releasee

6/14/06

Date

PROB 49
(NYEP-10/28/05)

United States District Court
EASTERN DISTRICT OF NEW YORK

**Waiver of Hearing to Modify Conditions
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and the assistance of counsel before any unfavorable change(s) may be made in my conditions of Probation and/or Supervised Release or before my period of supervision can be extended. By assistance of counsel, "I understand that I have the right to be represented at a hearing by counsel of my choosing if I am able to retain counsel. I also understand that I have the right to request that the Court appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel."

I hereby voluntarily waive my statutory right to a hearing and to the assistance of counsel. I also hereby agree to the following modification (s) of my conditions of Probation and/or Supervised Release or to the proposed extension of my term of supervision:

For a period of up to 120 days days, the defendant shall reside in a Community Confinement Center (CCC) approved by the Probation Department. While in the CCC, the defendant shall adhere to all rules and conditions established by the CCC, including the payment of subsistence costs.

Witness:


U.S. Probation Officer

Signed:


Probationer or Supervised Releasee

6/26/06
Date